

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

UCB, INC., UCB PHARMA GMBH, and
LTS LOHMANN THERAPIE-SYSTEME AG.,

Plaintiffs/Counterclaim Defendants,

v.

MYLAN TECHNOLOGIES INC.,

Defendant/Counterclaim Plaintiff.

Case No. 2:22-cv-00216 CR

MYLAN'S REQUEST FOR STATUS CONFERENCE

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Attorneys for Defendant Mylan Technologies Inc.

Pursuant to Paragraph 11 of the March 24, 2023 Scheduling Order, Dkt. No. 48, the parties jointly notified the Court of the Federal Circuit's judgment in a related case. *See* Dkt. No. 50. Mylan hereby respectfully requests the Court schedule a telephone status conference at the Court's earliest convenience to discuss that decision's impact on this litigation, and the most efficient course for resolving Plaintiffs' claims in light of that decision as well as certain defenses Mylan has raised in this case. Specifically, Mylan seeks a status conference for two reasons.

First, the Federal Circuit's decision affirmed the invalidity of certain claims of the '589 Patent. Plaintiffs have alleged in this case that Mylan infringes the '589 patent and the related '174 patent. Accordingly, Mylan would like to discuss the impact of that decision on the currently asserted claims of the '589 and '174 patents.

Second, Mylan seeks the Court's guidance on early summary adjudication for certain of Mylan's non-patent affirmative defenses that present threshold questions for this case. In particular, Plaintiffs' claims under the other two patents at issue, namely the '979 and '980 patents, implicate a covenant not to sue (CNS) granted by Plaintiffs to Mylan to resolve the previous infringement action. *See* Dkt. No. 17 ¶¶ 34-35 (Answer); *id.* ¶¶ 21-23, 31-32 (Counterclaim). Mylan has raised an affirmative defense based on the CNS. *See* Dkt. No. 17 at 33. Mylan believes the CNS presents threshold questions ripe for partial summary judgment and respectfully requests the Court's guidance on scheduling and procedural matters in this regard.

On April 20, 2023, Mylan met and conferred with Plaintiffs to seek their consent to request a telephone status conference. Plaintiffs do not consent to this request. *See* Exhibit A.

Dated: April 24, 2023

Respectfully submitted,

PLANTE & HANLEY, P.C.

s/ Michael F. Hanley

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